

House Study Bill 38 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to the opening, administration, and termination
2 of adult and minor guardianships and conservatorships.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MINOR GUARDIANSHIPS

Section 1. Section 232.3, subsection 1, Code 2021, is amended to read as follows:

1. During the pendency of an action under this chapter, a party to the action is estopped from litigating concurrently the custody, guardianship, or placement of a child who is the subject of the action, in a court other than the juvenile court with jurisdiction of the pending action under this chapter. A district judge, district associate judge, juvenile court judge, magistrate, or judicial hospitalization referee, upon notice of the pendency of an action under this chapter, shall not issue an order, finding, or decision relating to the custody, guardianship, or placement of the child who is the subject of the action, under any law, including but not limited to chapter 232D, 598, or 598B, ~~or 633~~.

Sec. 2. Section 232.3, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 3. An action which is pending under chapter 232D prior to an action being brought under this chapter shall be stayed by the court in the chapter 232D action unless the court follows the procedures in subsection 2 and authorizes a party to the action to litigate a specific issue under this chapter.

Sec. 3. Section 232D.103, Code 2021, is amended to read as follows:

232D.103 Jurisdiction.

The juvenile court has exclusive jurisdiction in a guardianship proceeding concerning a minor who is alleged to be in need of a guardianship and guardianships of minors.

Sec. 4. NEW SECTION. **232D.107 Confidentiality.**

Official juvenile court records in guardianship proceedings shall be confidential and are not public records. Confidential records may be inspected and their contents shall be disclosed to the following without court order, provided that a person

1 or entity who inspects or receives a confidential record under
2 this section shall not disclose the confidential record or its
3 contents unless required by law:

4 1. The judge and professional court staff.

5 2. The minor and the minor's counsel.

6 3. The minor's parent, guardian or custodian, court
7 visitor, and any counsel representing such person.

8 Sec. 5. Section 232D.301, subsection 2, paragraph d,
9 subparagraph (3), Code 2021, is amended to read as follows:

10 (3) Any adult who has had the primary care of the minor or
11 with whom the minor has lived for ~~at least~~ any time during the
12 six months prior to immediately preceding the filing of the
13 petition.

14 Sec. 6. Section 232D.301, subsection 4, Code 2021, is
15 amended to read as follows:

16 4. The petition shall state whether a limited guardianship
17 is appropriate, and whether a conservatorship for the minor is
18 already in existence.

19 Sec. 7. Section 232D.302, subsection 2, Code 2021, is
20 amended to read as follows:

21 2. Notice shall be served upon the minor's known parents
22 listed in the petition in accordance with the rules of civil
23 procedure. If the parent has not filed a consent to the
24 appointment of a guardian, the notice shall inform any parent
25 named in the petition that the parent may be entitled to
26 representation under the conditions described in section
27 232D.304.

28 Sec. 8. Section 232D.305, subsection 1, Code 2021, is
29 amended to read as follows:

30 1. The court may appoint a court visitor for the minor. A
31 person is qualified to serve as a court visitor if the court
32 determines the person has demonstrated sufficient knowledge of
33 guardianships to adequately perform the duties in subsection 3.

34 Sec. 9. Section 232D.306, Code 2021, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 4. A hearing on the petition may be
2 recorded if a court reporter is not used.

3 Sec. 10. Section 232D.307, subsection 1, Code 2021, is
4 amended to read as follows:

5 1. The court shall request criminal record checks and checks
6 of the child abuse, dependent adult abuse, and sex offender
7 registries in this state for all proposed guardians other than
8 financial institutions with Iowa trust powers unless a proposed
9 guardian has undergone the required background checks in this
10 section within the ~~twelve~~ six months prior to the filing of
11 a petition and the background check has been provided to the
12 court.

13 Sec. 11. Section 232D.401, subsection 1, Code 2021, is
14 amended to read as follows:

15 1. The order by the court appointing a guardian for a minor
16 shall state the basis for the order and the date on which the
17 first reporting period for the guardianship will end.

18 Sec. 12. Section 232D.401, subsection 3, unnumbered
19 paragraph 1, Code 2021, is amended to read as follows:

20 An order by the court appointing a guardian for a minor shall
21 state the powers granted to the guardian. ~~Except as otherwise~~
22 ~~limited by court order, the~~ The court may grant the guardian
23 the following powers, ~~which may be exercised without prior~~
24 ~~court approval:~~

25 Sec. 13. Section 232D.501, subsection 1, paragraph a, Code
26 2021, is amended by adding the following new subparagraph:

27 NEW SUBPARAGRAPH. (2A) The guardian's plan, if any, for
28 applying for and receiving funds and benefits payable for the
29 support of the minor.

30 Sec. 14. Section 232D.501, subsection 1, paragraph b, Code
31 2021, is amended by adding the following new subparagraphs:

32 NEW SUBPARAGRAPH. (11) The results of the guardian's
33 efforts to apply for funds or benefits for the minor, and
34 an accounting for the use of such funds or benefits by the
35 guardian.

- 1 *b.* Any spouse of the respondent.
- 2 *c.* Any adult children of the respondent.
- 3 *d.* Any parents of the respondent.
- 4 *e.* Any adult, who has had the primary care of the respondent
5 or with whom the respondent has lived for ~~at least~~ any time
6 during the six months prior to immediately preceding the filing
7 of the petition, or any institution or facility where the
8 respondent has resided ~~for at least six months prior to any~~
9 time during the six months immediately preceding the filing of
10 the petition.
- 11 *f.* Any legal representative or representative payee of the
12 respondent.
- 13 *g.* Any person designated as an attorney in fact in a durable
14 power of attorney for health care which is valid under chapter
15 144B, or any person designated as an agent in a durable power
16 of attorney which is valid under [chapter 633B](#).
- 17 Sec. 18. Section 633.560, subsection 3, Code 2021, is
18 amended to read as follows:
- 19 3. The court shall require the proposed guardian or
20 conservator to attend the hearing on the petition but the court
21 may excuse the proposed guardian's or conservator's attendance
22 for good cause shown.
- 23 Sec. 19. Section 633.561, subsection 6, Code 2021, is
24 amended to read as follows:
- 25 6. If the court determines that it would be in the
26 respondent's best interest to have legal representation
27 with respect to any further proceedings in a guardianship
28 or conservatorship, the court may appoint an attorney to
29 represent the respondent at the expense of the respondent or
30 the respondent's estate, or if the respondent is indigent the
31 cost of the court appointed attorney shall be assessed against
32 the county in which the proceedings are pending.
- 33 Sec. 20. Section 633.562, subsection 1, Code 2021, is
34 amended to read as follows:
- 35 1. If the court determines that the appointment of a court

1 visitor would be in the best interest of the respondent, the
2 court shall appoint a court visitor at the expense of the
3 respondent or the respondent's estate, or, if the respondent
4 is indigent, the cost of the court visitor shall be assessed
5 against the county in which the proceedings are pending. The
6 court may appoint any qualified person as a court visitor in
7 a guardianship or conservatorship proceeding. A person is
8 qualified to serve in this capacity if the court determines the
9 person has demonstrated sufficient knowledge of guardianships
10 or conservatorships to adequately perform the duties in
11 subsection 3.

12 Sec. 21. Section 633.562, Code 2021, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 7. A court visitor shall be discharged
15 from all further duties upon appointment of a guardian or
16 conservator, unless otherwise ordered by the court. The court
17 may order a court visitor to continue to serve if the court
18 determines continued service would be in the best interest of
19 the protected person. If the court continues the service of
20 the court visitor, the court may limit the direct duties of the
21 court visitor as the court deems necessary. The court visitor
22 shall thereafter continue to serve until discharged by the
23 court.

24 Sec. 22. Section 633.564, subsection 1, Code 2021, is
25 amended to read as follows:

26 1. The court shall request criminal record checks and
27 checks of the child abuse, dependent adult abuse, and sexual
28 offender registries in this state for all proposed guardians
29 and conservators, other than financial institutions with Iowa
30 trust powers, unless a proposed guardian or conservator has
31 undergone the required background checks required by this
32 section within the six months prior to the filing of a petition
33 and the background check has been provided to the court.

34 Sec. 23. Section 633.569, Code 2021, is amended to read as
35 follows:

1 **633.569 Emergency appointment of temporary guardian or**
2 **conservator.**

3 1. A person authorized to file a petition under section
4 ~~633.552, 633.553, or 633.554~~ 633.556 or 633.557 may file an
5 application for the emergency appointment of a temporary
6 guardian or conservator.

7 2. Such application shall state all of the following:

8 a. The name and address of the respondent.

9 **0b. The name and address of the petitioner and the**
10 **petitioner's relationship to the respondent.**

11 b. The name and address of the proposed guardian or
12 conservator and the reason the proposed guardian or conservator
13 should be selected.

14 **0c. The names and addresses, to the extent known, of any**
15 **other persons who must be named in the petition for appointment**
16 **of a guardian or conservator under section 633.556 or 633.557.**

17 c. The reason the emergency appointment of a temporary
18 guardian or conservator is sought.

19 3. The court may enter an ex parte order appointing a
20 temporary guardian or conservator on an emergency basis under
21 this section if the court finds that all of the following
22 conditions are met:

23 a. There is not sufficient time to file a petition
24 and hold a hearing pursuant to section ~~633.552, 633.553,~~
25 ~~or 633.554~~ 633.556, 633.557, or 633.560.

26 b. The appointment of a temporary guardian or conservator
27 is necessary to avoid immediate or irreparable harm to the
28 respondent before a hearing with notice to the respondent can
29 be held.

30 c. There is reason to believe that the basis for appointment
31 of guardian or conservator exists under section ~~633.552,~~
32 ~~633.553, or 633.554~~ 633.556 or 633.557.

33 4. Notice of a petition for the appointment of a temporary
34 guardian or conservator and the issuance of an ex parte
35 order appointing a temporary guardian or conservator shall be

1 provided to the respondent, the respondent's attorney, and any
2 other person the court determines should receive notice.

3 5. Upon the issuance of an ex parte order, if the respondent
4 is an adult, the respondent may file a request for a hearing.
5 If the respondent is a minor, the respondent, a parent having
6 legal custody of the respondent, or any other person having
7 legal custody of the respondent may file a written request for
8 a hearing. Such hearing shall be held no later than seven days
9 after the filing of a written request.

10 6. The powers of the temporary guardian or conservator
11 set forth in the order of the court shall be limited to those
12 necessary to address the emergency situation requiring the
13 appointment of a temporary guardian or conservator.

14 7. The temporary guardianship or conservatorship shall
15 terminate within thirty days after the order is issued.

16 8. The court may order an extension of the temporary
17 guardianship or conservatorship for thirty days for good
18 cause shown, including a showing that a hearing on a petition
19 for a guardianship or conservatorship under section 633.556
20 or 633.557 cannot be scheduled within thirty days after the
21 order for a temporary guardianship or conservatorship is
22 ordered. Prior to or contemporaneously with the filing for
23 an application for the extension of time, the guardian or
24 conservator shall file a report with the court setting forth
25 all of the following:

26 a. All actions conducted by the guardian or conservator on
27 behalf of the protected person from the time of the initial
28 appointment of the guardian up to the time of the report.

29 b. All actions that the guardian or conservator plans to
30 conduct on behalf of the protected person during the thirty-day
31 extension period.

32 9. The temporary guardian or conservator shall submit any
33 other report the court requires.

34 Sec. 24. Section 633.570, subsections 1 and 2, Code 2021,
35 are amended to read as follows:

1 1. In a proceeding for the appointment of a guardian, the
2 respondent shall be given written notice which advises the
3 respondent ~~of the powers that the court may grant~~ a guardian
4 ~~may exercise without court approval pursuant to the powers set~~
5 ~~out in section 633.635, subsection 2,~~ and the powers that the
6 ~~guardian may exercise only with court approval pursuant to set~~
7 ~~out in section 633.635, subsection 3.~~

8 2. In a proceeding for the appointment of a conservator,
9 the respondent shall be given written notice which advises
10 the respondent ~~of the powers that the court may grant~~ a
11 conservator ~~may exercise without court approval pursuant to~~
12 ~~the powers set out in section 633.646 and the powers that the~~
13 ~~guardian may exercise only with court approval pursuant to~~
14 ~~section 633.647~~ 633.642.

15 Sec. 25. Section 633.635, subsection 1, Code 2021, is
16 amended to read as follows:

17 1. The order by the court appointing a guardian shall state
18 the factual basis for the guardianship pursuant to section
19 633.552 and the date on which the first reporting period for
20 the guardianship shall end.

21 Sec. 26. Section 633.635, subsection 2, unnumbered
22 paragraph 1, Code 2021, is amended to read as follows:

23 Based upon the evidence produced at the hearing, the court
24 may grant a guardian the following powers and duties with
25 respect to a protected person ~~which may be exercised without~~
26 ~~prior court approval:~~

27 Sec. 27. Section 633.635, subsection 3, unnumbered
28 paragraph 1, Code 2021, is amended to read as follows:

29 A Notwithstanding subsection 2, a guardian may be granted
30 the following powers which may only be exercised upon court
31 approval:

32 Sec. 28. NEW SECTION. **633.640A Powers of conservator upon**
33 **appointment.**

34 1. The order by the court appointing a conservator shall
35 state the basis for the conservatorship pursuant to section

1 633.553 or pursuant to section 633.554.

2 2. Upon appointment, the conservator may exercise the
3 powers relating to all fiduciaries as set out in sections
4 633.63 through 633.162, unless expressly modified by the court,
5 without prior court approval. These powers include but are not
6 limited to the following:

7 a. Make written requests for the purpose of obtaining the
8 property of the protected person, or obtaining information
9 about the property of the protected person pursuant to section
10 633.78.

11 b. Designate and employ an attorney to assist in the
12 administration of the estate of the protected person pursuant
13 to section 633.82.

14 c. Hold investments in the name of a bank or trustee company
15 pursuant to section 633.124.

16 d. Require a bank to show ownership of investments held in
17 nominee name and keep them separate from the assets of the bank
18 pursuant to section 633.125.

19 3. Until such time as the conservator files an initial
20 financial management plan and such plan is approved by the
21 court as required by section 633.670, subsection 1, the
22 conservator may exercise the following powers with respect to
23 a protected person without court approval except as otherwise
24 ordered by the court:

25 a. Collect, receive, and receipt for any principal or income
26 of the protected person.

27 b. Receive property of the protected person from any source.

28 c. Continue to hold any investment or other property of the
29 protected person.

30 4. Upon the filing of an appropriate oath by the
31 conservator, the clerk of the court shall issue letters of
32 appointment. A copy of the initial order of the court and
33 any future order, granting or limiting the authority of the
34 conservator to act on behalf of the protected person shall be
35 attached to the letters of appointment.

1 Sec. 29. Section 633.641, subsection 3, Code 2021, is
2 amended to read as follows:

3 3. ~~If a protected person has executed a valid power of~~
4 ~~attorney under chapter 633B, the conservator shall act in~~
5 ~~accordance with the applicable provisions of chapter 633B.~~
6 If the court appoints a conservator for a protected person
7 who has previously executed a valid power of attorney under
8 chapter 633B, the power of attorney is suspended unless the
9 power of attorney provides otherwise or the court appointing
10 the conservator orders that the power of attorney should
11 continue. If the power of attorney continues, the agent is
12 accountable to the conservator as well as the principal. The
13 power of attorney shall be reinstated upon termination of the
14 conservatorship for reasons other than the protected person's
15 death.

16 Sec. 30. Section 633.642, unnumbered paragraph 1, Code
17 2021, is amended to read as follows:

18 Except as otherwise ordered by the court, and except
19 for those powers relating to all fiduciaries as set out in
20 sections 633.63 through 633.162 which may be exercised without
21 approval of the court unless expressly modified by the court,
22 a conservator must give notice to persons entitled to notice
23 and receive specific prior authorization by the court before
24 the conservator may take any other action on behalf of the
25 protected person. ~~These other powers~~ Powers requiring court
26 approval include but are not limited to the authority of the
27 conservator to:

28 Sec. 31. Section 633.669, Code 2021, is amended to read as
29 follows:

30 **633.669 ~~Reporting requirements — assistance~~ Reports by clerk**
31 **guardians.**

32 1. A guardian appointed by the court under this chapter
33 shall file with the court the following ~~written~~ verified
34 reports which shall not be waived by the court:

35 a. An initial care plan filed within sixty days of

1 appointment. The information in the initial care plan shall
2 include but not be limited to the following information:

3 (1) The current residence of the protected person and the
4 guardian's plan for the protected person's living arrangements.

5 (2) The current sources of payment for the protected
6 person's living expenses and other expenses, and the guardian's
7 plan for payment of the protected person's living expenses and
8 other expenses.

9 (3) The protected person's health status and health care
10 needs, and the guardian's plan for meeting the protected
11 ~~person's needs for medical, dental, and other~~ health care
12 needs.

13 (3A) Whether the protected person has a living will or
14 health care power of attorney.

15 (4) If applicable, the protected person's need for other
16 professional services for mental, behavioral, or emotional
17 health, and the guardian's plan for other professional services
18 needed by the protected person.

19 (5) If applicable, the protected person's employment
20 status, the protected person's need for educational, training,
21 or vocational services, and the guardian's plan for meeting the
22 educational, training, and vocational needs of the protected
23 person.

24 (6) If applicable, the guardian's plan for facilitating the
25 participation of the protected person in social activities.

26 (7) The guardian's plan for facilitating contacts between
27 the protected person and the protected person's family members
28 and other ~~significant~~ persons significant in the life of the
29 protected person.

30 (8) The guardian's plan for contact with, and activities on
31 behalf of, the protected person.

32 (9) The powers that the guardian requests to carry out the
33 initial care plan.

34 (10) The guardian shall file an amended plan when there
35 has been a significant change in the circumstances or the

1 guardian seeks to deviate significantly from the plan. The
2 guardian must obtain court approval of the amended plan before
3 implementing any of its provisions.

4 b. An annual report, filed within sixty days of the close
5 of the reporting period, ~~unless the court otherwise orders on~~
6 ~~good cause shown.~~ The information in the annual report shall
7 include but not be limited to the following information:

8 (1) The current living arrangements of the protected
9 person.

10 (2) The sources of payment for the protected person's living
11 expenses and other expenses.

12 (3) A description, if applicable, of the following:

13 (a) The protected person's ~~physical and mental health~~
14 status and the ~~medical, dental, and other professional health~~
15 services provided to the protected person.

16 (b) If applicable, the protected person's employment status
17 and the educational, training, and vocational services provided
18 to the protected person.

19 (0c) The guardian's facilitation of the participation of
20 the protected person in social activities.

21 (c) The contact of the protected person with family members
22 and other significant persons.

23 (d) The nature and extent of the guardian's visits with, and
24 activities on behalf of, the protected person.

25 (04) The guardian's changes to the care plan for the
26 protected person for the next annual reporting period.

27 (004) The powers that the guardian requests to carry out
28 the care plan for the protected person for the next annual
29 reporting period.

30 (4) The guardian's recommendation as to the need for
31 continuation of the guardianship.

32 (5) The ability of the guardian to continue as guardian.

33 (6) The need of the guardian for assistance in providing or
34 arranging for the provision of the care and protection of the
35 protected person.

1 (7) Any other information the guardian deems necessary for
2 the court to consider.

3 c. A final report within thirty days of the termination
4 of the guardianship under section 633.675 unless that time is
5 extended by the court.

6 2. The court shall develop a simplified uniform reporting
7 form for use in filing the required reports.

8 3. The clerk of the court shall notify the guardian in
9 writing of the reporting requirements and shall provide
10 information and assistance to the guardian in filing the
11 reports.

12 4. Reports of guardians shall be reviewed and approved by a
13 district court judge or referee.

14 5. The court, for good cause, may extend the deadline for
15 filing required reports. Required reports of a guardian which
16 are not timely filed and which are delinquent, and for which no
17 extension for filing has been granted by the court, shall be
18 administered as provided in section 633.32.

19 6. Reports required by this section shall be served on the
20 protected person, the protected person's attorney, if any, and
21 the court visitor, if any.

22 Sec. 32. Section 633.670, Code 2021, is amended to read as
23 follows:

24 **633.670 Reports by conservators.**

25 1. A conservator shall file an a verified initial financial
26 management plan for protecting, managing, investing, expending,
27 and distributing the assets of the conservatorship estate
28 within ninety days after appointment which shall not be waived
29 by the court. The plan must be based on the needs of the
30 protected person and take into account the best interest of the
31 protected person as well as the protected person's preference,
32 values, and prior directions to the extent known to, or
33 reasonably ascertainable by, the conservator.

34 ~~a. The initial plan shall include all of the following:~~ The
35 initial financial management plan shall state the protected

1 person's age, residence, living arrangements, and sources of
2 payment for living expenses.

3 ~~(1) A budget containing projected expenses and resources,~~
4 ~~including an estimate of the total amount of fees the~~
5 ~~conservator anticipates charging per year and a statement or~~
6 ~~list of the amount the conservator proposes to charge for each~~
7 ~~service the conservator anticipates providing to the protected~~
8 ~~person.~~

9 ~~(2) A statement as to how the conservator will involve~~
10 ~~the protected person in decisions about management of the~~
11 ~~conservatorship estate.~~

12 ~~(3) If ordered by the court, any step the conservator plans~~
13 ~~to take to develop or restore the ability of the protected~~
14 ~~person to manage the conservatorship estate.~~

15 ~~(4) An estimate of the duration of the conservatorship.~~

16 b. If applicable, the protected person's will shall be filed
17 with the court clerk and the protected person's prepaid burial
18 trust and powers of attorney shall be described.

19 c. The conservator shall include a proposed budget for the
20 protected person and budget-related information for the next
21 annual reporting period including all of the following:

22 (1) The protected person's receipts and income and
23 the projected sources of income including, if applicable,
24 wages, social security income, pension and retirement plan
25 distribution, veterans' benefits, rental income, interest
26 earnings, and dividends, and the total estimated receipts and
27 income.

28 (2) The protected person's liabilities and debts including,
29 if applicable, mortgage, car loans, credit card debt, federal,
30 state, and property taxes owed and the total estimated
31 liabilities and debts; a list and concise explanation of
32 any liability or debt owed by the protected person to the
33 conservator; and a list and concise explanation of the
34 liability of any other person for a liability of the protected
35 person.

1 (3) The protected person's estimated expenses on a monthly
2 and annual basis including, if applicable, nursing home or
3 facility charge, real property expenses for residence, food and
4 household expenses, utilities, household help and caregiver
5 expenses, health services and health insurance expenses,
6 educational and vocational expenses, personal auto and other
7 transportation expenses, clothing expenses, personal allowance
8 and other personal expenses, liabilities and debts, attorney
9 fees and other professional expenses, conservator fees, and
10 other administrative expenses.

11 d. The conservator shall include a list of the protected
12 person's assets and the conservator's plan for management
13 of these assets including, if applicable, financial
14 accounts including checking and certificates of deposit and
15 cash, investments including stocks, bonds, mutual funds,
16 exchange-traded funds, individual retirement accounts and other
17 investment accounts, pension, profit-sharing, annuities, and
18 retirement funds, personal property including household goods
19 and vehicles, receivables including mortgages and liens payable
20 to the protected person's estate or trust, life insurance, and
21 other property.

22 e. The conservator shall include a statement as to how the
23 conservator will involve the protected person in decisions
24 about management of the conservatorship estate.

25 f. If ordered by the court, the conservator shall include
26 any action the conservator plans to take to develop or
27 restore the ability of the protected person to manage the
28 conservatorship estate.

29 g. The conservator shall include the authority that the
30 conservator requests to carry out the initial financial plan
31 including expenditures in accordance with the proposed budget
32 for the protected person and the plan for the management of the
33 assets of the protected person for the next annual reporting
34 period.

35 ~~b. h. Within two days after filing the initial plan, the~~

1 ~~The~~ conservator shall ~~give~~ provide notice of the filing of
 2 the initial plan ~~with~~ and a copy of the initial plan to the
 3 protected person, the protected person's attorney, if any, and
 4 court visitor, if any, and others as directed by the court.
 5 The notice must state that any person entitled to a copy of
 6 the plan must file any objections to the plan not later than
 7 ~~fifteen days after it is filed~~ twenty days from the date of
 8 mailing notice of filing the initial plan.

9 ~~e.~~ i. At least twenty days after the plan has been filed,
 10 the court shall review and determine whether the plan should
 11 be approved or revised, after considering objections filed and
 12 whether the plan is consistent with the conservator's powers
 13 and duties.

14 ~~d.~~ j. After approval by the court, the conservator shall
 15 provide a copy of the approved plan and order approving the
 16 plan to the protected person, the protected person's attorney,
 17 if any, and court visitor, if any, and others as directed by
 18 the court.

19 ~~e.~~ k. The conservator shall file an amended plan when
 20 there has been a significant change in circumstances or the
 21 conservator seeks to deviate significantly from the plan.
 22 Before the amended plan is implemented, the provisions for
 23 court approval of the plan shall be followed as provided in
 24 ~~paragraphs "b", "c", and "d"~~ the initial financial management
 25 plan.

26 2. A conservator shall ~~file~~ attach an inventory of the
 27 protected person's assets within ninety days after appointment
 28 and debts to the initial financial management plan, which
 29 includes an oath or affirmation that the inventory is believed
 30 to be complete and accurate as far as information permits.
 31 ~~Copies~~ After approval by the court, the conservator shall
 32 provide copies of the inventory ~~shall be provided~~ to the
 33 protected person, the protected person's attorney, if any,
 34 and court visitor, if any, and others as directed by the
 35 court. When the conservator receives additional property

1 of the protected person, or becomes aware of its existence,
2 a description of the property shall be included in the
3 conservator's next annual report.

4 2A. A conservator shall attach to the initial financial
5 management plan an inventory of the protected person's assets
6 and debts, which includes an oath or affirmation that the
7 inventory is believed to be complete and accurate as far as
8 information permits. The conservator shall provide copies of
9 the inventory to the protected person, the protected person's
10 attorney, if any, and the court visitor, if any, and others
11 as directed by the court. Any objections to the inventory
12 shall be filed in the same manner and according to the same
13 schedule as objections to the initial financial management
14 plan. The court shall review the inventory and determine
15 whether the inventory should be approved at the same time as
16 the court reviews the initial financial management plan. When
17 the conservator receives an additional asset of the protected
18 person or becomes aware of its existence, or becomes aware
19 of additional debt of the protected person, a description of
20 the asset or debt shall be included in the conservator's next
21 annual report.

22 3. A conservator shall file a ~~written and~~ verified report on
23 an annual basis for the period since the end of the preceding
24 report period. ~~The court which shall not waive these reports~~
25 be waived by the court.

26 ~~a. These reports shall include all of the following:~~ The
27 annual report shall state the age, the residence, and the
28 living arrangements of the protected person, and sources of
29 payment for the protected person's living expenses during the
30 reporting period.

31 ~~(1) Balance of funds on hand at the beginning and end of the~~
32 ~~period.~~

33 ~~(2) Disbursements made.~~

34 ~~(3) Changes in the conservator's plan.~~

35 ~~(4) List of assets as of the end of the period.~~

1 ~~{5} Bond amount and surety's name.~~

2 ~~{6} Residence and physical location of the protected~~
3 ~~person.~~

4 ~~{7} General physical and mental condition of the protected~~
5 ~~person.~~

6 ~~{8} Other information reflecting the condition of the~~
7 ~~conservatorship estate.~~

8 ~~b. These reports shall be filed:~~ The conservator shall
9 submit with the annual report an inventory of the assets of the
10 protected person as of the last day of the reporting period the
11 total value of assets at the beginning and end of the reporting
12 period.

13 ~~{1} On an annual basis within sixty days of the end of the~~
14 ~~reporting period unless the court orders an extension for good~~
15 ~~cause shown in accordance with the rules of probate procedure.~~

16 c. The annual report shall include an itemization of all
17 income or funds received and all expenditures made by the
18 conservator on behalf of the protected person. If any of
19 the expenditures were made to provide support for or pay the
20 debts of another person, the annual report shall include an
21 explanation of these expenditures. If any of the expenditures
22 were made to pay any liability or debt owed by the protected
23 person to the conservator, the annual report shall include an
24 explanation of these expenditures. If any of the expenditures
25 were made to pay any liability or debt that is also owed by
26 another person or entity, the annual report shall include an
27 explanation of these expenditures.

28 d. The annual report shall include the following budget and
29 information related to the budget for the protected person:

30 {1} A description of changes, if any, made in the budget
31 approved by the court for the preceding reporting period.

32 {2} A proposed budget and budget-related information for
33 the next reporting period containing the information set forth
34 in subsection 1, paragraph "c".

35 {3} A request for approval of the proposed budget and

1 authority to make expenditures in accordance with the proposed
2 budget.

3 e. The annual report shall include the following information
4 related to the management of the assets of the protected
5 person:

6 (1) A description of changes, if any, in the plan for
7 management of the assets of the protected person approved by
8 the court for the preceding reporting period.

9 (2) A proposed plan for management of the assets of the
10 protected person for the next reporting period.

11 (3) A request for approval of the proposed plan for
12 management of the assets of the protected person and the
13 authority to carry out the plan.

14 f. The conservator shall include a statement as to how the
15 conservator will involve the protected person in decisions
16 about management of the conservatorship estate.

17 g. The annual report shall describe, if ordered by the
18 court, the actions that have been taken and that will be taken
19 by the conservator to develop or restore the ability of the
20 protected person to manage the conservatorship's assets.

21 h. The conservator may request court approval of fees
22 provided by an attorney on behalf of the conservatorship or the
23 protected person during the preceding reporting period.

24 i. The conservator may request court approval of fees
25 provided the conservator on behalf of the conservatorship or
26 the protected person during the preceding reporting period.

27 4. The conservator shall file a verified final report with
28 the court as follows:

29 ~~{2}~~ a. Within thirty days following removal of the
30 conservator.

31 ~~{3}~~ b. Upon the conservator's filing of a resignation and
32 before the resignation is accepted by the court.

33 ~~{4}~~ c. Within sixty days following the termination of the
34 conservatorship.

35 ~~{5}~~ d. At other times as ordered by the court.

1 ~~e.~~ 5. Reports required by this section The initial
 2 financial management plan, the inventory of the protected
 3 person's assets, and the annual report shall be served,
 4 annually, on the protected person, the protected person's
 5 attorney, if any, and court visitor, if any, and the veterans
 6 administration if the protected person is receiving veterans
 7 veterans' benefits.

8 6. The court, for good cause, may extend the deadline for
 9 filing required reports. Required reports of a conservator
 10 which are not timely filed and which are delinquent, and for
 11 which no extension for filing has been granted by the court,
 12 shall be administered as provided in section 633.32.

13 Sec. 33. Section 633.675, subsections 2, 3, and 4, Code
 14 2021, are amended to read as follows:

15 2. The court shall terminate a guardianship for an adult if
 16 ~~it the court finds by clear and convincing evidence~~ that the
 17 basis for appointing a guardian pursuant to section 633.552 has
 18 not been established.

19 3. The court shall terminate a conservatorship if the court
 20 finds ~~by clear and convincing evidence~~ that the basis for
 21 appointing a conservator pursuant to section 633.553 or 633.554
 22 is not satisfied.

23 4. The standard of proof and the burden of proof to be
 24 applied in a termination proceeding to terminate a guardianship
 25 or conservatorship for an adult shall be the same as set forth
 26 in section 633.551, subsection 2.

27 DIVISION III

28 CONFORMING CHANGES

29 Sec. 34. Section 633.3, subsections 9, 17, 22, and 23, Code
 30 2021, are amended to read as follows:

31 9. *Conservator* — means a person appointed by the court
 32 to have the custody and control of the property of a ~~ward~~
 33 protected person under the provisions of this probate code.

34 17. *Estate* — the real and personal property of either a
 35 decedent or a ~~ward~~ protected person, and may also refer to the

1 real and personal property of a trust described in section
2 633.10.

3 22. *Guardian* — means the person appointed by the court to
4 have the custody of the person of the ~~ward~~ protected person
5 under the provisions of this probate code.

6 23. *Guardian of the property* — at the election of the
7 person appointed by the court to have the custody and care of
8 the property of a ~~ward~~ protected person, the term "*guardian of*
9 *the property*" may be used, which term shall be synonymous with
10 the term "*conservator*".

11 Sec. 35. Section 633.78, subsection 1, unnumbered paragraph
12 1, Code 2021, is amended to read as follows:

13 A fiduciary under this chapter may present a written request
14 to any person for the purpose of obtaining property owned by
15 a decedent or by a ~~ward~~ protected person of a conservatorship
16 for which the fiduciary has been appointed, or property to
17 which a decedent or ~~ward~~ protected person is entitled, or
18 for information about such property needed to perform the
19 fiduciary's duties. The request must contain statements
20 confirming all of the following:

21 Sec. 36. Section 633.78, subsection 1, paragraph b, Code
22 2021, is amended to read as follows:

23 b. The request has been signed by all fiduciaries acting on
24 behalf of the decedent or ~~ward~~ protected person.

25 Sec. 37. Section 633.78, subsection 4, paragraph a, Code
26 2021, is amended to read as follows:

27 a. Damages sustained by the decedent's or ~~ward's~~ protected
28 person's estate.

29 Sec. 38. Section 633.80, Code 2021, is amended to read as
30 follows:

31 **633.80 Fiduciary of a fiduciary.**

32 A fiduciary has no authority to act in a matter wherein the
33 fiduciary's decedent or ~~ward~~ protected person was merely a
34 fiduciary, except that the fiduciary shall file a report and
35 accounting on behalf of the decedent or ~~ward~~ protected person

1 in said matter.

2 Sec. 39. Section 633.93, Code 2021, is amended to read as
3 follows:

4 **633.93 Limitation on actions affecting deeds.**

5 No action for recovery of any real estate sold by any
6 fiduciary can be maintained by any person claiming under the
7 deceased, the ~~ward~~ protected person, or a beneficiary, unless
8 brought within five years after the date of the recording of
9 the conveyance.

10 Sec. 40. Section 633.112, Code 2021, is amended to read as
11 follows:

12 **633.112 Discovery of property.**

13 The court may require any person suspected of having
14 possession of any property, including records and documents,
15 of the decedent, ~~ward~~ protected person, or the estate, or of
16 having had such property under the person's control, to appear
17 and submit to an examination under oath touching such matters,
18 and if on such examination it appears that the person has the
19 wrongful possession of any such property, the court may order
20 the delivery thereof to the fiduciary. Such a person shall be
21 liable to the estate for all damages caused by the person's
22 acts.

23 Sec. 41. Section 633.123, subsection 1, paragraph b,
24 subparagraph (3), Code 2021, is amended to read as follows:

25 (3) The needs and rights of the beneficiaries or the ~~ward~~
26 protected person.

27 Sec. 42. Section 633.580, subsections 1 and 4, Code 2021,
28 are amended to read as follows:

29 1. The name, age, and last known post office address of the
30 proposed ~~ward~~ protected person.

31 4. A general description of the property of the proposed
32 ~~ward~~ protected person within this state and of the proposed
33 ~~ward's~~ protected person's right to receive property; also, the
34 estimated present value of the real estate, the estimated value
35 of the personal property, and the estimated gross annual income

1 of the estate. If any money is payable, or to become payable,
2 to the proposed ~~ward~~ protected person by the United States
3 through the United States department of veterans affairs, the
4 petition shall so state.

5 Sec. 43. Section 633.591A, Code 2021, is amended to read as
6 follows:

7 **633.591A Voluntary petition for appointment of conservator**
8 **for a minor — standby basis.**

9 A person having physical and legal custody of a minor
10 may execute a verified petition for the appointment of a
11 standby conservator of the proposed ~~ward's~~ protected person's
12 property, upon the express condition that the petition shall
13 be acted upon by the court only upon the occurrence of an event
14 specified or the existence of a described condition of the
15 mental or physical health of the petitioner, the occurrence
16 of which event, or the existence of which condition, shall be
17 established in the manner directed in the petition.

18 Sec. 44. Section 633.603, Code 2021, is amended to read as
19 follows:

20 **633.603 Appointment of foreign conservators.**

21 When there is no conservatorship, nor any application
22 therefor pending, in this state, the duly qualified foreign
23 conservator or guardian of a nonresident ~~ward~~ protected
24 person may, upon application, be appointed conservator of the
25 property of such person in this state; provided that a resident
26 conservator is appointed to serve with the foreign conservator;
27 and provided further, that for good cause shown, the court
28 may appoint the foreign conservator to act alone without the
29 appointment of a resident conservator.

30 Sec. 45. Section 633.604, Code 2021, is amended to read as
31 follows:

32 **633.604 Application.**

33 The application for appointment of a foreign conservator
34 or guardian as conservator in this state shall include the
35 name and address of the nonresident ~~ward~~ protected person, and

1 of the nonresident conservator or guardian, and the name and
2 address of the resident conservator to be appointed. It shall
3 be accompanied by a certified copy of the original letters
4 or other authority conferring the power upon the foreign
5 conservator or guardian to act as such. The application
6 shall also state the cause for the appointment of the foreign
7 conservator to act as sole conservator, if such be the case.

8 Sec. 46. Section 633.605, Code 2021, is amended to read as
9 follows:

10 **633.605 Personal property.**

11 A foreign conservator or guardian of a nonresident may
12 be authorized by the court of the county wherein such ~~ward~~
13 protected person has personal property to receive the same upon
14 compliance with the provisions of [sections 633.606, 633.607](#) and
15 633.608.

16 Sec. 47. Section 633.607, Code 2021, is amended to read as
17 follows:

18 **633.607 Order for delivery.**

19 Upon the filing of the bond as above provided, and the court
20 being satisfied with the amount thereof, it shall order the
21 personal property of the ~~ward~~ protected person delivered to
22 such conservator or guardian.

23 Sec. 48. Section 633.633, Code 2021, is amended to read as
24 follows:

25 **633.633 Provisions applicable to all fiduciaries shall**
26 **govern.**

27 The provisions of this probate code applicable to all
28 fiduciaries shall govern the appointment, qualification, oath
29 and bond of guardians and conservators, except that a guardian
30 shall not be required to give bond unless the court, for good
31 cause, finds that the best interests of the ~~ward~~ protected
32 person require a bond. The court shall then fix the terms and
33 conditions of such bond.

34 Sec. 49. Section 633.633B, Code 2021, is amended to read as
35 follows:

1 **633.633B Tort liability of guardians and conservators.**

2 The fact that a person is a guardian or conservator shall not
3 in itself make the person personally liable for damages for the
4 acts of the ward protected person.

5 Sec. 50. Section 633.636, Code 2021, is amended to read as
6 follows:

7 **633.636 Effect of appointment of guardian or conservator.**

8 The appointment of a guardian or conservator shall not
9 constitute an adjudication that the ward protected person is of
10 unsound mind.

11 Sec. 51. Section 633.637, Code 2021, is amended to read as
12 follows:

13 **633.637 Powers of ward protected person.**

14 1. A ward protected person for whom a conservator has been
15 appointed shall not have the power to convey, encumber, or
16 dispose of property in any manner, other than by will if the
17 ward protected person possesses the requisite testamentary
18 capacity, unless the court determines that the ward protected
19 person has a limited ability to handle the ward's protected
20 person's own funds. If the court makes such a finding, the
21 court shall specify to what extent the ward protected person
22 may possess and use the ward's protected person's own funds.

23 2. Any modification of the powers of the ward protected
24 person that would be more restrictive of the ward's protected
25 person's control over the ward's protected person's financial
26 affairs shall be based upon clear and convincing evidence
27 and the burden of persuasion is on the conservator. Any
28 modification that would be less restrictive of the ward's
29 protected person's control over the ward's protected person's
30 financial affairs shall be based upon proof in accordance with
31 the requirements of [section 633.675](#).

32 Sec. 52. Section 633.637A, Code 2021, is amended to read as
33 follows:

34 **633.637A Rights of ward protected person under guardianship.**

35 An adult ward protected person under a guardianship has the

1 right of communication, visitation, or interaction with other
 2 persons upon the consent of the adult ~~ward~~ protected person,
 3 subject to [section 633.635, subsection 2](#), paragraph “i”, and
 4 section 633.635, subsection 3, paragraph “c”. If an adult ~~ward~~
 5 protected person is unable to give express consent to such
 6 communication, visitation, or interaction with a person due
 7 to a physical or mental condition, consent of an adult ~~ward~~
 8 protected person may be presumed by a guardian or a court based
 9 on an adult ~~ward’s~~ protected person’s prior relationship with
 10 such person.

11 Sec. 53. Section 633.638, Code 2021, is amended to read as
 12 follows:

13 **633.638 Presumption of fraud.**

14 If a conservator be appointed, all contracts, transfers and
 15 gifts made by the ~~ward~~ protected person after the filing of the
 16 petition shall be presumed to be a fraud against the rights
 17 and interest of the ~~ward~~ protected person except as otherwise
 18 directed by the court pursuant to [section 633.637](#).

19 Sec. 54. Section 633.639, Code 2021, is amended to read as
 20 follows:

21 **633.639 Title to ~~ward’s~~ protected person’s property.**

22 The title to all property of the ~~ward~~ protected person is
 23 in the ~~ward~~ protected person and not the conservator subject,
 24 however, to the possession of the conservator and to the
 25 control of the court for the purposes of administration,
 26 sale or other disposition, under the provisions of the
 27 law. Any real property titled at any time in the name of a
 28 conservatorship shall be deemed to be titled in the ~~ward’s~~
 29 protected person’s name subject to the conservator’s right of
 30 possession.

31 Sec. 55. Section 633.640, Code 2021, is amended to read as
 32 follows:

33 **633.640 Conservator’s right to possession.**

34 Every conservator shall have a right to, and shall take,
 35 possession of all of the real and personal property of the

1 ~~ward~~ protected person. The conservator shall pay the taxes
2 and collect the income therefrom until the conservatorship is
3 terminated. The conservator may maintain an action for the
4 possession of the property, and to determine the title to the
5 same.

6 Sec. 56. Section 633.643, Code 2021, is amended to read as
7 follows:

8 **633.643 Disposal of will by conservator.**

9 When an instrument purporting to be the will of the ~~ward~~
10 protected person comes into the hands of a conservator, the
11 conservator shall immediately deliver it to the court.

12 Sec. 57. Section 633.644, Code 2021, is amended to read as
13 follows:

14 **633.644 Court order to preserve testamentary intent of ~~ward~~**
15 **protected person.**

16 Upon receiving an instrument purporting to be the will of a
17 living ~~ward~~ protected person under the provisions of section
18 633.643, the court may open said will and read it. The court
19 with or without notice, as it may determine, may enter such
20 orders in the conservatorship as it deems advisable for the
21 proper administration of the conservatorship in light of the
22 expressed testamentary intent of the ~~ward~~ protected person.

23 Sec. 58. Section 633.645, Code 2021, is amended to read as
24 follows:

25 **633.645 Court to deliver will to clerk.**

26 An instrument purporting to be the will of a ~~ward~~ protected
27 person coming into the hands of the court under the provisions
28 of [section 633.643](#), shall thereafter be resealed by the court
29 and be deposited with the clerk to be held by said clerk as
30 provided in [sections 633.286 through 633.289](#).

31 Sec. 59. Section 633.653A, Code 2021, is amended to read as
32 follows:

33 **633.653A Claims for cost of medical care or services.**

34 The provision of medical care or services to a ~~ward~~ protected
35 person who is a recipient of medical assistance under chapter

1 249A creates a claim against the conservatorship for the amount
2 owed to the provider under the medical assistance program for
3 the care or services. The amount of the claim, after being
4 allowed or established as provided in this part, shall be paid
5 by the conservator from the assets of the conservatorship.

6 Sec. 60. Section 633.654, Code 2021, is amended to read as
7 follows:

8 **633.654 Form and verification of claims — general**
9 **requirements.**

10 No claim shall be allowed against the estate of a ~~ward~~
11 protected person upon application of the claimant unless
12 it shall be in writing, filed in duplicate with the clerk,
13 stating the claimant's name and address, and describing the
14 nature and the amount thereof, if ascertainable. It shall be
15 accompanied by the affidavit of the claimant, or of someone for
16 the claimant, that the amount is justly due, or if not due,
17 when it will or may become due, that no payments have been
18 made thereon which are not credited, and that there are no
19 offsets to the same, to the knowledge of the affiant, except as
20 therein stated. The duplicate of said claim shall be mailed
21 by the clerk to the conservator or the conservator's attorney
22 of record; however, valid contract claims arising in the
23 ordinary course of the conduct of the business or affairs of
24 the ~~ward~~ protected person by the conservator may be paid by the
25 conservator without requiring affidavit or filing.

26 Sec. 61. Section 633.656, Code 2021, is amended to read as
27 follows:

28 **633.656 How claim entitled.**

29 All claims filed against the estate of the ~~ward~~ protected
30 person shall be entitled in the name of the claimant against
31 the conservator as such, naming the conservator, and in all
32 further proceedings thereon, this title shall be preserved.

33 Sec. 62. Section 633.660, Code 2021, is amended to read as
34 follows:

35 **633.660 Execution and levy prohibited.**

1 No execution shall issue upon, nor shall any levy be made
2 against, any property of the estate of a ward protected person
3 under any judgment against the ward protected person or a
4 conservator, but the provisions of **this section** shall not be so
5 construed as to prevent the enforcement of a mortgage, pledge,
6 or other lien upon property in an appropriate proceeding.

7 Sec. 63. Section 633.661, Code 2021, is amended to read as
8 follows:

9 **633.661 Claims of conservators.**

10 If the conservator is a creditor of the ward, the conservator
11 shall file the claim as other creditors, and the court shall
12 appoint some competent person as temporary conservator to
13 represent the ward protected person at the hearing on the
14 conservator's claim. The same procedure shall be followed in
15 the case of coconservators where all such conservators are
16 creditors of the ward protected person; but if one of the
17 coconservators is not a creditor of the ward protected person,
18 such disinterested conservator shall represent the ward at the
19 hearing on any claim against the ward protected person by a
20 coconservator.

21 Sec. 64. Section 633.662, Code 2021, is amended to read as
22 follows:

23 **633.662 Claims not filed.**

24 The conservator may pay any valid claim against the estate of
25 the ward protected person even though such claim has not been
26 filed, but all such payments made by the conservator shall be
27 at the conservator's own peril.

28 Sec. 65. Section 633.664, Code 2021, is amended to read as
29 follows:

30 **633.664 Liens not affected by failure to file claim.**

31 Nothing in **sections 633.654** and **633.658** shall affect or
32 prevent an action or proceeding to enforce any mortgage,
33 pledge, or other lien upon the property of the ward protected
34 person.

35 Sec. 66. Section 633.665, Code 2021, is amended to read as

1 follows:

2 **633.665 Separate actions and claims.**

3 1. Any action pending against the ~~ward~~ protected person at
4 the time the conservator is appointed shall also be considered
5 a claim filed in the conservatorship if notice of substitution
6 is served on the conservator as defendant and a duplicate of
7 the proof of service of notice of such proceeding is filed in
8 the conservatorship proceeding.

9 2. A separate action based on a debt or other liability
10 of the ~~ward~~ protected person may be commenced against the
11 conservator in lieu of filing a claim in the conservatorship.
12 Such an action shall be commenced by serving an original notice
13 on the conservator and filing a duplicate of the proof of
14 service of notice of such proceeding in the conservatorship
15 proceeding. Such an action shall also be considered a claim
16 filed in the conservatorship. Such an action may be commenced
17 only in a county where the venue would have been proper if
18 there were no conservatorship and the action had been commenced
19 against the ~~ward~~ protected person.

20 Sec. 67. Section 633.667, Code 2021, is amended to read as
21 follows:

22 **633.667 Payment of claims in insolvent conservatorships.**

23 When it appears that the assets in a conservatorship are
24 insufficient to pay in full all the claims against such
25 conservatorship, the conservator shall report such matter to
26 the court, and the court shall, upon hearing, with notice to
27 all persons who have filed claims in the conservatorship, make
28 an order for the pro rata payment of claims giving claimants
29 the same priority, if any, as they would have if the ~~ward~~
30 protected person were not under conservatorship.

31 Sec. 68. Section 633.668, Code 2021, is amended to read as
32 follows:

33 **633.668 Conservator may make gifts.**

34 For good cause shown and under order of court, a conservator
35 may make gifts on behalf of the ~~ward~~ protected person out of

1 the assets under a conservatorship to persons or religious,
2 educational, scientific, charitable, or other nonprofit
3 organizations to whom or to which such gifts were regularly
4 made prior to the commencement of the conservatorship, or on
5 a showing to the court that such gifts would benefit the ~~ward~~
6 protected person or the ~~ward's~~ protected person's estate from
7 the standpoint of income, gift, estate or inheritance taxes.
8 The making of gifts out of the assets must not foreseeably
9 impair the ability to provide adequately for the best interests
10 of the ~~ward~~ protected person.

11 Sec. 69. Section 633.673, Code 2021, is amended to read as
12 follows:

13 **633.673 Court costs in guardianships.**

14 The ~~ward~~ protected person or the ~~ward's~~ protected person's
15 estate shall be charged with the court costs of a ward's
16 guardianship, including the guardian's fees and the fees of the
17 attorney for the guardian. The court may, upon application,
18 enter an order waiving payment of the court costs in indigent
19 cases. However, if the ~~ward~~ protected person or ~~ward's~~
20 protected person's estate becomes financially capable of paying
21 any waived costs, the costs shall be paid immediately.

22 Sec. 70. Section 633.676, Code 2021, is amended to read as
23 follows:

24 **633.676 Assets exhausted.**

25 At any time that the assets of the ~~ward's~~ protected person's
26 estate do not exceed the amount of the charges and claims
27 against it, the court may direct the conservator to proceed to
28 terminate the conservatorship.

29 Sec. 71. Section 633.677, Code 2021, is amended to read as
30 follows:

31 **633.677 Accounting to ~~ward~~ protected person — notice.**

32 Upon the termination of a conservatorship, the conservator
33 shall pay the costs of administration and shall render a full
34 and complete accounting to the ~~ward~~ protected person or the
35 ~~ward's~~ protected person's personal representative and to the

1 court. Notice of the final report of a conservator shall be
2 served on the ~~ward~~ protected person or the ~~ward's~~ protected
3 person's personal representative, in accordance with section
4 633.40, unless notice is waived. An order prescribing notice
5 may be made before or after the filing of the final report.

6 Sec. 72. Section 633.681, Code 2021, is amended to read as
7 follows:

8 **633.681 Assets of minor ~~ward~~ protected person exhausted.**

9 When the assets of a minor ~~ward's~~ protected person's
10 conservatorship are exhausted or consist of personal property
11 only of an aggregate value not in excess of twenty-five
12 thousand dollars, the court, upon application or upon its
13 own motion, may terminate the conservatorship. The order
14 for termination shall direct the conservator to deliver any
15 property remaining after the payment of allowed claims and
16 expenses of administration to a custodian under any uniform
17 transfers to minors Act. Such delivery shall have the same
18 force and effect as if delivery had been made to the ~~ward~~
19 protected person after attaining majority.

20 Sec. 73. Section 633.682, Code 2021, is amended to read as
21 follows:

22 **633.682 Discharge of conservator and release of bond.**

23 Upon settlement of the final accounting of a conservator,
24 and upon determining that the property of the ~~ward~~ protected
25 person has been delivered to the person or persons lawfully
26 entitled thereto, the court shall discharge the conservator and
27 exonerate the surety on the conservator's bond.

28 **EXPLANATION**

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to the administration of adult and minor
32 guardianships and conservatorships.

33 Under current law, the juvenile court has exclusive
34 jurisdiction of guardianship proceedings. The bill provides
35 that the juvenile court also has exclusive jurisdiction over

1 guardianships of minors.

2 The bill creates a new Code section that makes official
3 juvenile court records in guardianships confidential and not
4 public records. The following people are authorized to request
5 the records without court order: the judge and professional
6 court staff, the minor and the minor's counsel, the minor's
7 parent, guardian, or custodian, court visitor, and any counsel
8 representing such person, so long as they do not disclose the
9 confidential record or contents unless required by law.

10 Under current law, the petition for minor and adult
11 guardianships includes the name and address of any adult
12 who has had the primary care of the minor or with whom the
13 protected person has lived for at least six months prior to the
14 filing of the petition. The bill requires the name and address
15 of any adult who has had the primary care of the protected
16 person or with whom the protected person had lived with at any
17 time during the six months prior to the filing of the petition.

18 The bill provides that in addition to stating in the
19 guardianship for the minor petition why a limited guardianship
20 is appropriate, the petition must also state whether a
21 conservatorship for the minor is already in place.

22 The bill provides that notice of a guardianship proceeding
23 must be given to any adult with whom the minor has lived for the
24 six months immediately preceding the filing of the petition.

25 The bill further provides that if a minor's known parents
26 have not consented to the appointment of a guardian, the notice
27 of the filing of a guardianship petition shall inform the known
28 parents that they are entitled to representation if they meet
29 the conditions in Code section 232D.304.

30 Under current law, qualification for a court visitor is not
31 provided. The bill provides a person is qualified to serve
32 as a court visitor for a minor or adult protected person if
33 the court determines the person has demonstrated sufficient
34 knowledge of guardianships to adequately perform the duties of
35 a court visitor.

1 The bill changes the requirements of the background checks
2 for a proposed guardian of the minor. Previously, the proposed
3 guardian for the minor could use background checks from the
4 past 12 months prior to filing the petition. The bill changes
5 that time frame to six months and adds that the background
6 check needs to have been provided to the court. The bill also
7 includes the same provision for adult guardianships.

8 The bill strikes a reference to "without prior court
9 approval" in a Code section listing powers a court may grant
10 to a guardian.

11 The bill also directs that the initial verified care plan
12 must include the guardian's plan for applying and receiving
13 funds and benefits for the support of the minor.

14 The bill allows a district court conducting checks of the
15 dependent adult abuse registry for all proposed guardians and
16 conservators pursuant to Code section 633.564 to have access
17 to dependent adult abuse information other than unfounded
18 dependent adult abuse information.

19 The bill provides that a court visitor will be discharged
20 upon the appointment of a guardian or conservator unless
21 ordered by the court to continue.

22 The bill enacts new Code section 633.640A, which provides
23 the powers of a conservator upon appointment. The bill
24 provides that an order appointing a conservator shall state
25 the basis for the conservatorship, and upon appointment
26 the conservator may exercise the powers relating to all
27 fiduciaries, unless expressly modified by the court, without
28 prior court approval. These powers include but are not
29 limited to the following: making written requests for the
30 purpose of obtaining the property of the protected person,
31 or obtaining information about the property of the protected
32 person; designating and employing an attorney to assist in
33 the administration of the estate of the protected person;
34 holding investments in the name of a bank or trustee company;
35 and requiring a bank to show ownership of investments held in

1 nominee name and keep them separate from the assets of the
2 bank. The bill further provides that until the conservator
3 files and the court approves an initial financial management
4 plan, the conservator may exercise the following powers without
5 court approval except as otherwise ordered by the court:
6 collect, receive, and receipt for any principal or income of
7 the protected person; receive property of the protected person
8 from any source; and continue to hold any investment or other
9 property of the protected person. The bill also provides that
10 the clerk of the court shall issue letters of appointment upon
11 the filing of an appropriate oath by the conservator and a
12 copy of the initial order of the court and any future order,
13 granting or limiting the authority of the conservator to act on
14 behalf of the protected person shall be attached to the letters
15 of appointment.

16 The bill amends the information required to be contained in
17 a guardian's written verified reports including the initial
18 care plan and annual reports, and information required to be
19 included in reports by conservators including the initial
20 financial management plan, including an inventory of the
21 protected person's assets and debts, the annual report, and the
22 final report.

23 The bill amends reporting requirements for guardians, and
24 requires that guardians must obtain court approval prior to any
25 significant deviation from the initial care plan filed with the
26 court.

27 The bill amends reporting requirements for conservators.
28 The conservator must give notice of filing a plan, and if no
29 objection is made within 20 days, the conservator must submit
30 a proposed order to the court approving the initial plan. If
31 there are objections to the plan, the court must set the matter
32 for hearing.

33 The bill makes conforming changes to the probate code by
34 changing the term "ward" to "protected person".